

HIGH COURT OF CHHATTISGARH, BILASPUR**MCRCA No. 1532 of 2019**

- Mahesh Bharne S/o - Ghudan Nal Bharne Aged About 44 Years Permanent Address- Village Mahrajpur, Post Koste, Police Station And Tahsil Barasivani, District Balaghat, Madhya Pradesh, Present Address - Pol Factory, Kaldabri, Police Station and Tahsil Ghumka, District Rajnandgaon Chhattisgarh.

---- Applicant**Versus**

- State Of Chhattisgarh Through Station House Officer, Police Station Ghumka, District Rajnandgaon, Chhattisgarh.

---- Respondent

For Applicant	: Shri Aditya Bhardwaj, Advocate.
For Respondent/State	: Ms. Smriti Shrivastava, P.L.

Hon'ble Shri Justice Arvind Singh Chandel**Order On Board****05/12/2019**

1. The applicant has preferred this first bail application under Section 438 of Cr.P.C. for apprehending arrest in connection with Crime No. 135/2019 registered at Police Station Ghumka, District – Rajnandgaon, (C.G.) for the offence punishable under Sections 354, 506, 376, 376(घ) of I.P.C.
2. In the present case, prosecutrix is a married lady aged about 26 years. On 28.07.2019, she made a written complaint alleging therein that on 19.07.2019 one Chandra Kishore @ Baba caught her hand and kissed her, thereafter, threatened her by saying that if will disclose the fact, then he would kill her and her husband. On the basis of the

said complaint, initially, offence under Section 354, 506 of I.P.C. has been registered against co-accused Chandra Kishore @ Baba. During course of investigation, on 29.07.2019, statement of the prosecutrix was recorded under Section 161 of Cr.P.C. wherein she disclosed about the same incident. Thereafter, on 03.08.2019, when supplementary statement of prosecutrix was recorded under Section 161 of Cr.P.C. then, she disclosed that she had given wrong information in the statement recorded on 29.07.2019. Virtually, during 15.07.2019 to 20.07.2019, other co-accused persons committed rape with her. Allegation against present applicant is that, on 20.07.2019, he took prosecutrix in a computer room and committed rape with her. On the basis of the statement of the prosecutrix, offence has been registered.

3. Learned Counsel appearing for the applicant submits that the applicant is innocent and has been falsely implicated in the present case. He further submits that in the F.I.R. and in the statement of the prosecutrix recorded under Section 161 of Cr.P.C., allegations are only mentioned against co-accused Chandra Kishore @ Baba. Prosecutrix has falsely implicated the present applicant alongwith other co-accused persons. *Prima facie*, no offence is made out against present applicant. Therefore, it is prayed that applicant may be granted benefit of anticipatory bail.
4. Learned Counsel appearing for the State opposes the bail application.
5. I have heard learned Counsel appearing for the parties and perused the material available with due care.

6. Taking into consideration the submissions put-forth on behalf of the parties, considering the facts and circumstances of the case, evidence collected by the prosecution and particularly considering the fact that in the F.I.R. and in the statement of prosecutrix recorded under Section 161 of Cr.PC., name of only one co-accused i.e. Chandra Kishore @ Baba is mentioned and there is no allegation of rape against applicant, therefore, without further commenting on other merits of the case, I am inclined to extend the benefit of anticipatory bail to the present applicant.

7. Accordingly, the bail application is allowed.

8. It is directed that in the event of arrest of the applicant in connection with the aforesaid crime, he shall be released on anticipatory bail on furnishing a personal bond in the sum of Rs. 20,000/- with one solvent surety for the like sum to the satisfaction of the Arresting Officer/Presiding Officer of the concerned trial Court. He shall also abide by all the following terms and conditions :

- (i) He shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such fact to the Court,
- (ii) He shall not act in any manner which will be prejudicial to fair and expeditious trial, and
- (iii) He shall appear before the trial Court on each and every date given to him by the said Court till disposal of the trial.

Sd/-
(Arvind Singh Chandel)
Judge